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May 8, 1995

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MAY - 8 1995

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

EX PARTE FILING  
PR Docket 92-235

Dear Mr. Secretary:

On April 25, 1995, Nippon Telegraph & Telephone Corporation ("NTT"), through its attorneys, filed ex parte comments with the Commission in the above-mentioned proceeding. Appendix B to the ex parte comments contains, inter alia, a letter addressed to Paul J. Kollmer from Mel Pennington of the Nevada Highway Patrol, dated April 7, 1995. In that letter, Mr. Pennington expresses his views regarding NTT's RZ SSB technology, based on his attendance at a demonstration of that technology conducted by NTT in March of this year at the APCO Western Conference held in Denver.

We recently received another letter from Mr. Pennington dated May 3, 1995 (a copy is appended hereto as Attachment 1), in which he indicates that he no longer wishes to have the views set forth in his April 7 letter considered by the Commission. Apparently, he considers his favorable impression of NTT's RZ SSB technology to be inconsistent with APCO's position in this proceeding, an organization of which Mr. Pennington is a member. Our response to the concerns expressed by Mr. Pennington is set out in my letter to him dated May 8, 1995 (a copy is appended hereto as Attachment 2).

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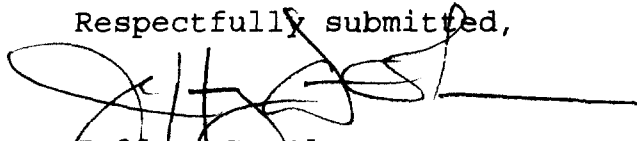
PAUL, WEISS, RIFKIND, WHARTON & GARRISON

Mr. William F. Caton, FCC  
May 8, 1995

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In order to accommodate Mr. Pennington's most recently expressed desire, NTT requests that the Commission disregard Mr. Pennington's April 7 letter in its consideration of the instant proceeding.

Respectfully submitted,



Jeffrey H. Olson  
Attorney for  
Nippon Telegraph and  
Telephone Corporation

Enclosures

cc: Robert Gurss, Esq.

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STATE OF NEVADA



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May 3, 1995

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Paul J. Kollmer, Esq.  
Paul, Weiss, Rifkind et. al.  
1615 L Street, N. W.  
Washington, DC 20036

Dear Mr. Kollmer:

On April, 17, 1995, I sent you a letter in response to a solicitation regarding NTT AMERICA's demonstration of their **RZ SSB TECHNOLOGY** at the APCO Western Regional Conference in Denver, Colorado in March of this year.

I agreed to your request because I felt there is a need for such technological advances.

It has come to my attention that your company has used this in an ex parte filing with reference to FCC General Docket 92-235 on April 25, 1995. This ex parte filing was in opposition to the Association of Public Safety Officials, Inc. (APCO) recommendations regarding G.D. 92-235. I am in total support of APCO's recommendations.

You have done this without my knowledge and consent, an act I consider reprehensible, if not illegal.

I demand the letter I sent to you regarding the above mentioned technology be withdrawn in support of any efforts that you or NTT America have, and will, put before the FCC.

Further, I am considering putting this before the State of Nevada Attorney General for further action that should be taken.

Your immediate action is required in this matter.

Sincerely,



Mel Pennington  
Communications Manager

cc: FCC  
APCO

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ATTACHMENT 2

JEFFREY H. OLSON  
COMMUNICATIONS COUNSEL  
(202) 223-7326

May 8, 1995

VIA FEDERAL EXPRESS

Mr. Mel Pennington  
Communications Manager  
Nevada Highway Patrol  
555 Wright Way  
Carson City, Nevada 89711

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MAY - 8 1995

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: FCC Refarming Proceeding

Dear Mr. Pennington:

I am responding to your letter dated May 3, 1995, addressed to Paul Kollmer of this office, regarding the April 25, 1995, ex parte comments filed by Nippon Telegraph and Telephone Corporation ("NTT") in the FCC's "Refarming" proceeding, PR Docket 92-235. I am concerned that you may be under a misimpression regarding the nature of NTT's comments and the manner in which your April 7, 1995, letter to Mr. Kollmer was employed within those comments. For your convenience, I have enclosed a copy of NTT's April 25 comments.

Examination of NTT's April 25 comments reveals that there were two general points made by that document. First, NTT provided the Commission with further information on the uniformly favorable reaction to its demonstrations of RZ SSB technology conducted in Washington, D.C., and Denver earlier this year. As part of NTT's showing in that regard, NTT submitted letters from representatives of manufacturers and users (including your April 7 letter) who had attended the RZ SSB demonstrations. We briefly characterized those letters as indicating a favorable reaction to the RZ SSB demonstrations.

Regarding the genesis of your April 7 letter, Mr. Kollmer informs me that, on two occasions -- both in person in Denver in March, and by telephone in April -- he asked if you would be kind enough to provide a letter reporting your impression of RZ SSB technology, based on your attendance at NTT's demonstration of RZ SSB held in Denver at the APCO

Mr. Mel Pennington  
May 8, 1995

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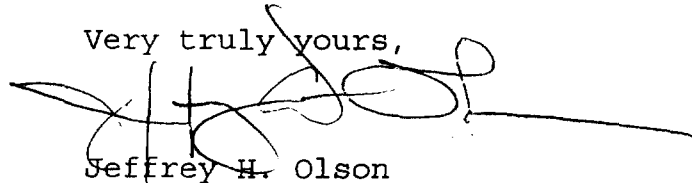
Western Conference. Mr. Kollmer informs me that he told you on both occasions, in very clear terms, that we intended to submit the letter, along with letters from other users and manufacturers, to the FCC to become part of the public record in the Refarming proceeding. In fact, this was what was done with your letter (and others), as part of NTT's April 25 comments.

In the second part of NTT's April 25 comments, we responded to a series of earlier ex parte comments submitted to the FCC by APCO, in which APCO asserted that 5 kHz technology is not viable. Obviously, as the proponent of a 5 kHz technology, NTT could not let what it considers to be APCO's baseless assertions to go unmet. However, in refuting APCO's claims regarding 5 kHz systems, we never stated or implied that you either oppose APCO's position or support a 5 kHz channelization scheme.

Put simply, NTT did not misrepresent your views in any way, and our use of your April 7 letter was completely consistent with Mr. Kollmer's representations to you. There is no factual, legal, or ethical basis for your hyperbolic and mistaken suggestions to the contrary. Nonetheless, NTT certainly has no desire to cause you distress regarding this matter. Therefore, I have this date written to the FCC asking that your April 7 letter be disregarded by the Commission in its consideration of the issues under review in the Refarming proceeding. So as to provide full disclosure on the matter, I have attached to my letter to the FCC copies of the instant letter and your May 3 letter to Mr. Kollmer. A copy of my letter to the FCC is enclosed herewith.

I hope this resolves the matter to your satisfaction. While I remain perplexed by your reaction, I apologize for any difficulty that may have resulted from your apparent misunderstanding of our efforts on behalf of NTT. If I may be of any service in the future, please do not hesitate to contact me directly.

Very truly yours,



Jeffrey H. Olson

Enclosures

cc (with enclosures): Robert Gurss, Esq.